

SENATE BILL NO. 129

INTRODUCED BY D. LEWIS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING COMPENSATION SALARIES PAID TO CERTAIN STATE
5 EMPLOYEES AND ~~REDUCING COMPENSATION PAID TO CERTAIN EXISTING STATE EMPLOYEES;~~
6 PROVIDING FOR EXCEPTIONS TO THE LIMITATION UNDER CERTAIN CIRCUMSTANCES; ~~PROVIDING~~
7 ~~THAT THE ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA;~~ REDUCING THE
8 EMPLOYER CONTRIBUTION FOR GROUP BENEFITS FOR EMPLOYEES EARNING MORE THAN A CERTAIN
9 AMOUNT EACH YEAR; AMENDING ~~SECTION~~ SECTIONS 2-18-303 AND 2-18-703, MCA; AND PROVIDING
10 AN EFFECTIVE DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 NEW SECTION. Section 1. Limitation on ~~compensation~~ SALARIES for state government employees
15 -- exceptions -- rulemaking -- definitions. (1) Except as provided in ~~[sections 2 and 3]~~ [SECTION 2] AND
16 SUBSECTION (2) OF THIS SECTION, a state government employee may not receive ~~compensation~~ A BASE SALARY that
17 is in excess of ~~200%~~ of the median household income in Montana \$100,000.

18 ~~(2) The department shall annually determine the median household income in Montana by using data~~
19 ~~provided by the United States bureau of the census, the bureau of labor statistics of the United States department~~
20 ~~of labor, or other available sources.~~

21 ~~———— (3) The calculation required by subsection (2) must be completed at least 6 months before the start of~~
22 ~~each regular legislative session.~~

23 ~~———— (4) The department of administration may adopt rules necessary to complete the calculation required~~
24 ~~in subsection (2).~~

25 (2) AN EMPLOYEE WHO IS SUBJECT TO THIS SECTION, WHO IS EMPLOYED BY THE STATE OF MONTANA ON [THE
26 EFFECTIVE DATE OF THIS ACT], AND WHO RECEIVES A BASE SALARY IN EXCESS OF THE LIMITATION PROVIDED IN THIS
27 SECTION IS NOT SUBJECT TO THE LIMITATION IN THIS SECTION.

28 ~~(5)(3)~~ For the purposes of ~~[sections 1 through 3 AND 2],~~ the following definitions apply:

29 (a) ~~"Compensation"~~ "BASE SALARY" has the meaning provided in 2-18-101.

30 (b) ~~(i)~~ "Employee" means any state employee ~~other than an employee of the Montana university system~~

1 ~~or a judge or employee of the judicial branch, OFFICER, OR ELECTED OFFICIAL, INCLUDING THOSE EMPLOYEES AND~~
 2 ~~OFFICERS LISTED IN 2-18-103 AND 2-18-104.~~

3 ~~(II) THE TERM DOES NOT INCLUDE AN EMPLOYEE OR OFFICER OF THE MONTANA UNIVERSITY SYSTEM OR A JUDGE~~
 4 ~~OR EMPLOYEE OF THE JUDICIAL BRANCH.~~

5 ~~(c) "Household income" means all income earned by residents of a household who are over 18 years of~~
 6 ~~age and includes employer contributions to employee benefits, such as the state contribution to group benefits~~
 7 ~~under the provisions of 2-18-703 or similar benefits provided by a nonstate employer.~~

8
 9 ~~NEW SECTION. Section 2. Reduction of compensation for existing employees. Except as provided~~
 10 ~~in [section 3] and 13-37-106, an employee who is subject to [section 1], who is currently employed by the state~~
 11 ~~of Montana on [the effective date of this act], and who receives compensation in excess of the limitation provided~~
 12 ~~in [section 1] may not continue to receive compensation in excess of the limitation after June 30, 2014.~~

13
 14 ~~NEW SECTION. Section 2. Salary exceptions -- procedure -- report. (1) An~~ SUBJECT TO SUBSECTION
 15 (4), AN exception to the salary limitation provided for in ~~[sections 1 and 2]~~ [SECTION 1] may be granted by:

16 ~~(a) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), the governor for an employee of the executive branch; or~~

17 ~~(B) AN ELECTED OFFICIAL LISTED IN 2-16-405(1)(C), (1)(D), (1)(E), (1)(F), OR (1)(H) FOR AN EMPLOYEE OF THE~~
 18 ~~AGENCY UNDER THE DIRECTION OF THAT OFFICIAL;~~

19 ~~(b)(C) the legislative council for an employee of the legislative branch. SERVICES DIVISION;~~

20 ~~(D) THE LEGISLATIVE FINANCE COMMITTEE FOR AN EMPLOYEE OF THE LEGISLATIVE FISCAL DIVISION;~~

21 ~~(E) THE LEGISLATIVE AUDIT COMMITTEE FOR AN EMPLOYEE OF THE LEGISLATIVE AUDIT DIVISION; AND~~

22 ~~(F) THE LEGISLATIVE CONSUMER COMMITTEE FOR AN EMPLOYEE OF THE OFFICE OF CONSUMER COUNSEL.~~

23 (2) An exception granted pursuant to subsection (1) may be granted only for a documented recruitment
 24 or retention problem.

25 (3) (a) Upon granting an exception for an employee or a group of employees, ~~the governor or the~~
 26 ~~legislative council must~~ AN ENTITY LISTED IN SUBSECTION (1) SHALL report to the legislative finance committee the
 27 exception and reasons for the exception.

28 (b) Each year the ~~governor and the legislative council~~ ENTITIES LISTED IN SUBSECTION (1) shall report to
 29 the legislative finance committee all current exceptions to the limitation provided in [section 1], as well as the
 30 justification pursuant to subsection (2) of this section for the exception.

1 (4) IF AN EMPLOYEE'S BASE SALARY IS IN EXCESS OF \$80,000, THE EMPLOYER CONTRIBUTION FOR GROUP
 2 BENEFITS PROVIDED PURSUANT TO 2-18-703 MUST BE REDUCED BY 5% FOR EACH \$1,000 OF SALARY THAT THE
 3 EMPLOYEE RECEIVES IN EXCESS OF \$80,000.

4

5 **Section 3.** Section 2-18-303, MCA, is amended to read:

6 **"2-18-303. Procedures for administering broadband pay plan.** (1) ~~On Except as provided in sections~~
 7 ~~1 through 31~~ [SECTION 1], on the first day of the first complete pay period in fiscal year 2010, each employee is
 8 entitled to the amount of the employee's base salary as it was on June 30, 2009.

9 (2) An employee's base salary may be no less than the minimum salary of the pay band to which the
 10 employee's position is allocated.

11 (3) All full-time employees whose base pay is \$45,000 or less annually will receive a one-time lump-sum
 12 payment of \$450 for the first full pay period after July 1, 2009. All part-time employees who are regularly
 13 scheduled to work 20 hours or more per week and whose base pay is \$21.635 per hour or less will receive a
 14 one-time lump-sum payment of \$225 for the first full pay period after July 1, 2009.

15 (4) (a) (i) A member of a bargaining unit may not receive the pay adjustment provided for in subsection
 16 (3) until the employer's collective bargaining representative receives written notice that the employee's collective
 17 bargaining unit has ratified a collective bargaining agreement.

18 (ii) If ratification of a collective bargaining agreement, as required by subsection (4)(a)(i), is not completed
 19 by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must
 20 continue to receive the compensation that they were receiving until an agreement is ratified.

21 (b) Methods of administration consistent with the purpose of this part and necessary to properly
 22 implement the pay adjustments provided for in this section may be provided for in collective bargaining
 23 agreements.

24 (5) (a) Montana highway patrol officer base salaries must be established through the broadband pay
 25 plan. Before January 1 of each odd-numbered year, the department shall, after seeking the advice of the Montana
 26 highway patrol, conduct a salary survey to be used in establishing the base salary for existing and entry-level
 27 highway patrol officer positions. The county sheriff's offices in the following consolidated governments and
 28 counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula,
 29 Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary for existing and entry-level highway patrol
 30 officer positions must then be determined by the department of justice, using the results of the salary survey and

1 the department of justice pay plan guidelines. Base or biennial salary increases under this subsection are
 2 exclusive of and not in addition to any increases otherwise awarded to other state employees after July 1, 2006.

3 (b) To the extent that the plan applies to employees within a collective bargaining unit, the
 4 implementation of the plan is a negotiable subject under 39-31-305.

5 (c) The department of justice shall submit the salary survey to the office of budget and program planning
 6 as a part of the information required by 17-7-111.

7 (d) The salary survey and plan must be completed at least 6 months before the start of each regular
 8 legislative session."

9

10 **SECTION 4. SECTION 2-18-703, MCA, IS AMENDED TO READ:**

11 **"2-18-703. Contributions.** (1) ~~Each~~ Except as provided in [section 2(4)], each agency, as defined in
 12 2-18-601, and the state compensation insurance fund shall contribute the amount specified in this section toward
 13 the group benefits cost.

14 (2) For employees defined in 2-18-701 and for members of the legislature, the employer contribution for
 15 group benefits is \$626 a month from January 2009 through December 2009, \$679 a month from January 2010
 16 through December 2010, and \$733 for January 2011 and for each succeeding month. For employees of the
 17 Montana university system, the employer contribution for group benefits is \$626 a month from July 2008 through
 18 June 2009, \$679 a month from July 2009 through June 2010, and \$733 for July 2010 and for each succeeding
 19 month. If a state employee is terminated to achieve a reduction in force, the continuation of contributions for group
 20 benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal
 21 part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week
 22 are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored
 23 group benefit plan may not receive the state contribution. A portion of the employer contribution for group benefits
 24 may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social
 25 Security Act, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

26 (3) For employees of elementary and high school districts, the employer's contributions may exceed but
 27 may not be less than \$10 a month.

28 (4) (a) For employees of political subdivisions, as defined in 2-9-101, except school districts, the
 29 employer's contributions may exceed but may not be less than \$10 a month.

30 (b) Subject to the public hearing requirement provided in 2-9-212(2)(b), the amount in excess of the base

1 contribution of a local government's property tax levy for contributions for group benefits as determined in
 2 subsection (4)(c) is not subject to the mill levy calculation limitation provided for in 15-10-420.

3 (c) (i) Subject to subsections (4)(c)(ii) and (4)(c)(iii), the base contribution is determined by multiplying
 4 the average annual contribution for each employee on July 1, 1999, times the number of employees for whom
 5 the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal year.

6 (ii) If a political subdivision did not make contributions for group benefits on or before July 1, 1999, and
 7 subsequently does so, the base contribution is determined by multiplying the average annual contribution for each
 8 employee in the first year the political subdivision provides contributions for group benefits times the number of
 9 employees for whom the employer makes contributions for group benefits under 2-9-212 on July 1 of each fiscal
 10 year.

11 (iii) If a political subdivision has made contributions for group benefits but has not previously levied for
 12 contributions in excess of the base contribution, the political subdivision's base is determined by multiplying the
 13 average annual contribution for each employee at the beginning of the fiscal year immediately preceding the year
 14 in which the levy will first be levied times the number of employees for whom the employer made contributions
 15 for group benefits under 2-9-212 in that fiscal year.

16 (5) Unused employer contributions for any state employee must be transferred to an account established
 17 for this purpose by the department of administration and upon transfer may be used to offset losses occurring
 18 to the group of which the employee is eligible to be a member.

19 (6) Unused employer contributions for any government employee may be transferred to an account
 20 established for this purpose by a self-insured government and upon transfer may be used to offset losses
 21 occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

22 (7) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide
 23 group insurance plans from providing greater or additional contributions for insurance benefits to employees with
 24 dependents than to employees without dependents or with fewer dependents."

25
 26 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3 ~~AND 2~~] are intended to be
 27 codified as an integral part of Title 2, chapter 18, and the provisions of Title 2, chapter 18, apply to [sections 1
 28 ~~through 3 AND 2~~].

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 30 **NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable

1 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
2 remains in effect in all valid applications that are severable from the invalid applications.

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4 NEW SECTION. Section 7. Effective date. If approved by the electorate, [this act] is effective July 1,
5 2013. [THIS ACT] IS EFFECTIVE JULY 1, 2011.

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7 ~~NEW SECTION. Section 8. Submission to electorate.~~ [This act] shall be submitted to the qualified
8 electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of
9 [this act] and the following:

10 ~~FOR a limit on compensation paid to certain state employees.~~

11 ~~AGAINST a limit on compensation paid to certain state employees.~~

12 - END -